

MINUTES OF THE REGULAR MEETING OF THE BUTTE-SILVER BOW COUNCIL OF COMMISSIONERS

JULY 16, 2008

The **Regular Meeting** of the Council of Commissioners was called to order Wednesday, **July 16, 2008** in the Council Chambers, Third Floor, Room 312, Courthouse Building, 155 West Granite Street, Butte, Montana by Chief Executive, Paul Babb.

ROLL CALL

9 present and 3 absent. Commissioners Sheehy, Fay and Mulcahy were excused

PRAYER

Commissioner Lee led the Commissioners in prayer.

APPROVAL OF THE MINUTES OF THE REGULAR MEETING OF JUNE 2, 2008

It was moved by Commissioner O'Leary, seconded by Commissioner Lee and carried by a roll call vote of 9 yeas 0 nays and 3 absent to approve the Minutes of the Regular Meeting of June 2, 2008.

ITEMS NOT ON THE AGENDA SUSPENSION OF THE RULES

It was moved by Commissioner O'Leary, seconded by Commissioner Lee and carried by a roll call vote of 9 yeas, 0 nays and 3 absent that in accordance with the provisions of Section 6, of Rule VI of the Rules of Business of the Council of Commissioners of the City and County of Butte-Silver Bow, State of Montana, the Council hereby finds that an emergency conditions exists which requires that the Council Rules be suspended to allow Council Communication No. 08-526 to be added to the agenda of tonight's Regular Meeting of the Council.

PUBLIC COMMENT ON ANY PUBLIC MATTER NOT ON THE AGENDA

None

CHIEF EXECUTIVE'S REPORT

Chief Executive reported that they closed with Panterra Minerals on Monday at 10:00 AM in the Industrial Park.

Tomorrow night at the Chamber of Commerce the Clark Fork Watershed Educational will be hosting a barbecue. Everything is free. A great chance to go down and see what this program is doing with the NRD money.

Tomorrow night the Chamber of Commerce is having their business after hours down at the Plaza Inn.

We are also going through the appeals process that we've been working on. We should have the preliminary results of the appeals in the next week. After we get the preliminary report back he will be taking that information to the Human Resource Department and then we will be having employee meetings. The Management Committee will work through this process with Fox Lawson.

Cindy McIlveen informed him that on the 29th of this month we will have somebody with MIG coming to Butte to give us an update on where we are at with our Parks and Recreation Master Plan. That will be open to the community. Also the Water Master Plan will be complete by the end of this month.

SECTION I

CONSENT AGENDA

- A.**
 - 1. COMMITTEE OF THE WHOLE MEETING REPORT
 - 2. FINANCE AND BUDGET COMMITTEE MEETING REPORT
 - 3. JUDICIARY COMMITTEE MEETING REPORT
 - 4. PUBLIC WORKS COMMITTEE MEETING REPORT
 - 5. PERSONNEL COMMITTEE MEETING REPORT

B.

COMMUNICATIONS

Before entertaining a motion for approval of the consent agenda, Chief Executive Babb called for any segregations. Commissioner O'Leary called for segregation of page 9, Section IX of the Committee of the Whole Report, Communication 08-420. Commissioner Moodry called for segregation on page 3, No. 14, Communication No. 08-513. Commissioner Lee called for a "friendly amendment" to Committee of the Whole, Section XII, Communication No. 08-479, Donald and Donna Driver, requesting Council accept back property purchased under tax sale. Recommendation should read "Committee recommends to deny and place on file. He also called for a segregation of No.21, Communication No. 08-520.

It was then moved by Commissioner O'Leary, seconded by Commissioner Lee and carried by a unanimous verbal vote to approve the Consent Agenda, Section A, Items 1 through 5 and Section B, Items 1 through 26 with the exception of those items segregated.

Segregations

Communication No. 08-420 – Sean Johnson, Chairman Evel Knievel Days, requesting temporary street closures for Evel Knievel Days 2008.

Commissioner O'Leary was expecting to see Mr. Jon Sesso here this evening. Cindy McIlveen said he was still in a meeting and we will come back to this one.

Communication No. 08-513 – Fran Doran, 900 W. Silver, requesting time on 7/16/08 agenda to discuss Splash Butte Water Park requests.

Commissioner Moodry said he didn't completely agree with denying Ms. Doran's request. She should be given a chance to discuss Splash Butte's needs and their role in potentially helping us. He believes that the Public Works Committee with input from the County Attorney's office may be able to point us in a direction where Butte can work in conjunction with Splash Butte, in conjunction with our Master Parks plan and hopefully get us a park built and a swimming pool in our community as quickly as possible. Fran Doran of 900 W. Silver Street, the President of Splash Butte Board then came to the microphone and explained they are a 501C3 organization working to build a water park in Butte, Montana. After answering questions from the Council members, Commissioner O'Leary called on Cindy McIlveen to explain the Parks and Recreation Master Plan. **It was then moved by Commissioner Moodry that Ms. Doran's Communication, 08-513, be referred to Public Works Committee for further deliberation with the Public Works Director and the County Attorney. The motion was seconded by Commissioner Coleman.** On the Question, Commissioner O'Leary asked Ms. Doran if she would concur with striking the 3rd point in her letter from consideration. She replied she would and would also agree to strike Stodden Park. Also Commissioner Moodry said his motion was to move the communication as a whole to the Public Works Committee. Commissioner Coleman seconded the motion. On the question Commissioner O'Leary asked Mr. Dennehy to come forward. Dan Dennehy of the Public Works Department said he agreed with Commissioner Moodry that that should be segregated to the Public Works Committee along with the County Attorney's legal counsel to be discussed at length in the sub-committee of the Public Works. Regarding the use and the possibility of having a private-public partnership and having that sort of leverage for grant writing both for the public section and for Splash Butte to leverage those important grant monies. You get a lot more money if you can show that there is a public-private partnership. We would like to pursue that within the Public Works Committee. He is not in favor of demolishing the buildings. It limits some innovative thinking in the future. **Commissioner Moodry amended**

his motion to strike the third item and we can revisit that if and when that comes up again. The amended motion was seconded by Commissioner Coleman. The motion carried with a unanimous verbal vote.

Communication No. 08-520 – John P. Walsh, Sheriff, requesting signatures of three council members on Butte-Silver Bow DUI Task Force Annual Report Plan for FY 08-09.

Commissioner Lee stated in the form of a motion that the recommendation should read request Chief Executive's signature as stated in our Charter. The motion was seconded by Commissioner Coleman. On the Question, Commissioner O'Leary said he would add to the motion to refer this to the Committee of the Whole rather than place on file because the document here has a front page which shows a place where three commissioners sign and not the Chief Executive. Commissioner Lee so amended his motion and Commissioner Coleman seconded it. The motion carried with a unanimous verbal vote.

Communication No. 08-420 – Sean Johnson, Chairman Evel Knievel Days, requesting temporary street closures for Evel Knievel Days 2008,

Commissioner O'Leary called on Jon Sesso to update us from last week. Jon Sesso, Planning Director, said he has met with everyone today. The change we made on W. Park Street was to move the car show up on Broadway Street and also close that portion of W. Park Street between Dakota and the crosswalk that is in front of Mural Park. That has been approved. They did make some additional suggestions and we are incorporating those into the final map which will be ready tomorrow. The Highway Department is going to put reader boards on the Interstate directing all traffic to Montana Street. The final road closure plan has been approved. **It was moved by Commissioner O'Leary, seconded by Commissioner Lee to approved Communication No. 08-420 and place on file. On the question, Commissioner Shaw asked about the fireworks staging. Mr. Sesso replied that there will be no fireworks. The motion passed unanimously.**

For suspension of the rules – Communication No. 08-526 Sheri Broudy, Parking Commission Chairman, requesting that she be allowed to add a contract to the agenda of tonight's meeting. The contract is to be entered into with the Agency of Credit Control to collect delinquent parking violations. **It was moved by Commissioner O'Leary, seconded by Commissioner Lee and carried with a roll call vote of 9 yeas, 0 nays and 3 absent to concur with the request in Communication No. 08-526 and place on file.**

SECTION II

ORDINANCES AND RESOLUTIONS - REFERRED TO JUDICIARY

1. COUNCIL RESOLUTION NO. 08-49

A RESOLUTION ACCEPTING THE DONATION OF TWO PARCELS OF REAL PROPERTY DESCRIBED AS MINERAL APPLICATION NO. 956, MINERAL ENTRY NO. 1231, LYING IN THE NORTHEAST ONE-QUARTER OF SECTION 19, TOWNSHIP 3 NORTH, RANGE 7 WEST, P.M.M. AND THAT PORTION OF PATENT NO. 25-73-0090 LYING EAST OF THE EUREKA FIRST, MINERAL SURVEY NO. 5184, LOCATED IN THE NORTHWEST ONE-QUARTER OF SECTION 18, TOWNSHIP 3 NORTH, RANGE 7 WEST, P.M.M. OF THE CITY AND COUNTY OF BUTTE-SILVER BOW, STATE OF MONTANA AND PROVIDING FOR AN EFFECTIVE DATE HEREIN.

2. COUNCIL RESOLUTION NO. 08-50

A RESOLUTION VACATING, CLOSING, DISCONTINUING AND ABANDONING A PORTION OF HANCOCK STREET ADJACENT TO LOT 1 IN BLOCK 14 OF THE HOME ADDITION WITHIN THE CITY AND COUNTY OF BUTTE-SILVER BOW, STATE OF MONTANA; PRESCRIBING THE EFFECTIVE DATE OF THIS RESOLUTION AND FINDING THE NECESSARY FACTS HEREIN.

SECTION III ORDINANCES AND RESOLUTIONS- FINAL READING

1. COUNCIL RESOLUTION NO. 08-40

A RESOLUTION APPROVING A 10 FOOT BY 80 FOOT GRANT OF EASEMENT TO NORTHWESTERN CORPORATION D/B/A NORTHWESTERN ENERGY, A DELAWARE CORPORATION, IN THE SOUTHEAST QUARTER OF THE SOUTHWEST QUARTER OF SECTION 16, TOWNSHIP 3 NORTH, RANGE 8 WEST, P.M.M., DESCRIBED AS TRACT 3 AS SHOWN IN CERTIFICATE OF SURVEY NO. 767-A, UNOFFICIALLY DESCRIBED AS LOT 4 AND THE EAST TEN FEET OF LOT 5 IN BLOCK 2 OF THE ROCKER TOWNSITE ON THE WEBSTER LODGE (AN UNFILED PLAT) FOR THE LOCATION OF A CATHODIC PROTECTION SYSTEM AND NECESSARY APPURTENANCES; FINDING THE NECESSARY FACTS FOR THIS RESOLUTION AND PROVIDING FOR AN EFFECTIVE DATE HEREIN. **Chief Executive says Council Resolution No. 08-40 was passed on June 18th so will strike it from this agenda.**

2. COUNCIL RESOLUTION NO. 08-46

A RESOLUTION DECLARING THE INTENTION OF THE COUNCIL OF COMMISSIONERS OF THE CITY AND COUNTY OF BUTTE-SILVER BOW, MONTANA TO CREATE A SPECIAL LIGHTING DISTRICT, TO BE KNOWN AS SPECIAL IMPROVEMENT LIGHTING DISTRICT NO. 1028, FOR THE PURPOSE OF DIRECTING, EQUIPPING, MAINTAINING, AND INSTALLING AN ELECTRICAL LIGHTING SYSTEM; DESIGNATING AND DESCRIBING THE BOUNDARIES OF SAID PROPOSED SPECIAL IMPROVEMENT LIGHTING DISTRICT; THE PURPOSE OF AND GENERAL CHARACTER OF THE IMPROVEMENTS TO BE MADE IN SAID SPECIAL IMPROVEMENT DISTRICT; ESTIMATING THE APPROXIMATE COST THEREOF FOR THE FIRST YEAR; FINDING, DETERMINING AND DECLARING THAT PROPERTY WITHIN SAID SPECIAL IMPROVEMENT DISTRICT WILL BE ESPECIALLY BENEFITED AND AFFECTED BY SUCH PROPOSED IMPROVEMENT; DECLARING THAT SUCH PROPERTY SHOULD BE ASSESSED FOR THE COST THEREOF OF MAINTENANCE AND ENERGY AND EXTENDING SUCH ASSESSMENTS TO BE IN ANNUAL INSTALLMENTS AND PROVIDING FOR THE FUNDS UPON WHICH SAID SPECIAL IMPROVEMENT ENERGY AND MAINTENANCE FUNDS SHALL BE DRAWN; PROVIDING FOR THE PUBLICATION AND GIVING OF NOTICE OF THE PASSAGE AND ADOPTION OF THIS RESOLUTION AND PROVIDING FOR THE EFFECTIVE DATE HEREOF. **It was moved by Commissioner O'Leary, seconded by Commissioner Lee and carried with a roll call vote of 9 yeas, 0 nays and 3 absent to place Council Resolution No. 08-46 on final reading and passed having been deemed fully read at length.**

3. COUNCIL RESOLUTION NO. 08-47

A RESOLUTION AUTHORIZING AND APPROVING THE SALE OF A PARCEL OF REAL PROPERTY DESCRIBED AS LOT 3 IN BLOCK 1 OF THE IRON CLAD LODE (AN UNFILED PLAT) BY THE CITY AND COUNTY OF BUTTE-SILVER BOW, STATE OF MONTANA TO THE ADJOINING OWNER PURSUANT TO POLICIES ADOPTED BY THE COUNCIL OF COMMISSIONERS AND PROVIDING FOR AN EFFECTIVE DATE HEREIN. **It was moved by Commissioner O'Leary, seconded by Commissioner Lee and carried by a roll call vote of 9 yeas, 0 nays and 3 absent to place Council Resolution No. 08-47 on final reading and passed having been deemed fully read at length.**

4. COUNCIL RESOLUTION NO. 08-48

A RESOLUTION VACATING, CLOSING, DISCONTINUING AND ABANDONING A PORTION OF EAGLE STREET BETWEEN BLOCKS 15

AND 20 AND TWO ALLEYS WITHIN BLOCKS 15 AND 20 IN THE NORTHERN PACIFIC ADDITION WITHIN THE CITY AND COUNTY OF BUTTE-SILVER BOW, STATE OF MONTANA; PRESCRIBING THE EFFECTIVE DATE OF THIS RESOLUTION AND FINDING THE NECESSARY FACTS HEREIN. It was moved by Commissioner O'Leary, seconded by Commissioner Lee and carried with a roll call vote of 9 yeas, 0 nays and 3 absent to place Council Resolution No. 08-47 on final reading and passed having been deemed fully read at length.

IV

ORDINANCES AND RESOLUTIONS – SUSPENSION OF THE RULES FOR FINAL PASSAGE

It was moved by Commissioner O'Leary, seconded by Commissioner Lee and carried by a roll call vote of 9 yeas, 0 nays and 3 absent to suspend the rules for the purpose of passing Council Resolution No. 08-51 by waiving subsection 7 of Rule XXXVI, of the Rules and Order of Business of the Council of Commissioners, thereby having it considered for advanced passage without reference to the Judiciary Committee.

1. COUNCIL RESOLUTION NO. 08-51

A RESOLUTION AUTHORIZING AND APPROVING THE SALE OF A CERTAIN PARCEL OF REAL PROPERTY LOCATED IN THE PORT OF MONTANA'S BUSINESS DEVELOPMENT PARK, LEGALLY DESCRIBED AS PARCEL 3C, COS 470-B, WITHIN THE CITY-COUNTY BUTTE-SILVER BOW, STATE OF MONTANA FOR THE PURPOSE OF COMMUNITY DEVELOPMENT IN ACCORDANCE WITH THE PROCEDURES OF BUTTE-SILVER BOW MUNICIPAL CODE AND PROVIDING FOR AN EFFECTIVE DATE HEREIN. It was moved by Commissioner O'Leary, seconded by Commissioner Lee and carried by a roll call vote of 9 yeas, 0 nays the 3 absent to place Council Resolution No. 08-51 on final reading and passed having been deemed fully read at length.

ADJOURN

There being no further business to come before the Council, it was moved by Commissioner O'Leary, seconded by Commissioner Lee and carried with a unanimous verbal vote to Rise to the Call of the Chair.

The meeting adjourned at 8:30 PM.

CHIEF EXECUTIVE

ATTEST:

CLERK AND RECORDER